

### REMARKS/ARGUMENTS

The Office Action of June 29, 2005 has been reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested.

Claims 1-22 are pending in this application. By this amendment, claims 1 and 15 have been amended and new claims 21 and 22 have been added. Reconsideration and allowance of the pending claims are respectfully requested.

#### *Double patenting rejections*

Claims 1-2, 7-10, 12, 14 and 18-19 stand rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-14 of U.S. patent no. 6,848,661 to Baldasari (Baldasari). Applicant submits herewith a terminal disclaimer that limits the term of the present application to the term of Baldasari. Accordingly, Applicant respectfully requests reconsideration and withdrawal of these rejections.

#### *Allowable claims*

Applicant thanks the Examiner for indicating that claims 2-4 and 16-17 would be allowable if rewritten in independent form to include the subject matter of their respective independent claim and any intervening claims. In view of the allowability of independent claims 1 and 15 as noted below, Applicant has retained these claims in their original form.

#### *Claims 11, 13 and 20*

Claims 11 and 13 stand rejected under 35 U.S.C. 103(a) as allegedly being obvious over claims 1-14 of Baldasari in view of U.S. patent no. 5,098,093 to Dupre (Dupre). Claim 20 stands rejected under 35 U.S.C. 103(a) as allegedly being obvious over claims 1-14 of Baldasari in view of U.S. patent no. 5,133,547 to Pardi (Pardi).

The office action asserts that Baldasari constitutes prior art only under 35 U.S.C. 102(e). Applicant respectfully submits that Baldasari is not applicable as prior art to the claims of the present application under 35 U.S.C. 102(e) or otherwise. The present application properly claims priority to Baldasari under 35 U.S.C. 120 and was invented by same the inventive entity, namely Alan D. Baldasari. Thus, it is not applicable under 35 U.S.C. 102(e), at least because it

is not a patent or a patent publication "by another" (i.e., someone other than the sole inventor for both Baldasari and the present application) before the invention thereof by the applicant. Accordingly, Applicant respectfully requests reconsideration and allowance of these claims over Baldasari in view of Dupre or Pardi.

*Claims 1, 5-15 and 18-19*

Claims 1, 5, 6, 10, 12, 15 and 18-19 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Pardi. Claims 7, 8 and 9 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Pardi. Claims 11, 13 and 14 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Pardi in view of Dupre. Applicant respectfully requests reconsideration and allowance of these claims.

Pardi discloses a self-adjusting basketball goal system that includes a cylinder assembly 60. The Pardi cylinder assembly acts an assist for moving the basketball goal upward. However, Pardi relies upon lock nuts 54 and 66 for locking the backboard in its vertical position. In particular, Pardi discloses a lock nut 66 that stops "the backboard assembly from moving downward. This feature of the invention insures that the backboard remains stable even under extreme conditions, for example when a person performs a dunk shot." Pardi, col. 3, lines 1-5. In other words, the lock nut of Pardi provides upward force and support to the backboard during use, rather than the cylinder assembly.

In contrast, independent claims 1 and 15, as amended, recite the subject matter of a basketball goal assembly having a shock-absorbing mechanism that absorbs substantially downward shocks to the neck by permitting movement of the neck from an original position, in which the shock-absorbing mechanism provides the sole upward force at the distal end of the neck for maintaining the neck in the original position. This subject matter is not taught or suggested by Pardi. With respect to claims 11, 13 and 14, Dupre fails to overcome this deficiency of Pardi and was not relied upon for this teaching. Accordingly, Applicant respectfully submits that independent claims 1 and 15, as well as claims 5-14 and 18-19 respectively depending therefrom, are allowable over Pardi, either alone or in combination with Dupre. In addition, Applicant respectfully submits that new claims 21 and 22, which respectively depend from independent claims 1 and 15, are allowable along with their base claims and further view of the novel features recited therein.

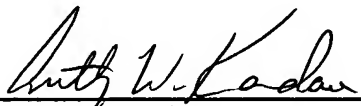
*Conclusion*

Based on the foregoing, Applicant respectfully submits that the application is in condition for allowance and a Notice to that effect is earnestly solicited. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact Applicants' undersigned representative at the below-listed number.

Respectfully submitted,

BANNER & WITCOFF, LTD.

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